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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1x and Decision 01-09-060	Rulemaking 02-01-011

REPLY OF PACIFIC GAS AND ELECTRIC COMPANY TO THE RESPONSE OF THE CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION

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December 28, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Pursuant to Rule 16.4 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure and with the permission of the assigned administrative law judge, Pacific Gas and Electric Company (PG&E) files this reply to the December 18, 2006, *Response of the California Municipal Utilities Association to the Petition of Pacific Gas and Electric Company to Modify Decision 06-07-030*.

Based on California Municipal Utilities Association's (CMUA) December 18 Response, it appears that there are two issues with respect to PG&E's November 16, 2006, Petition to Modify D.06-07-030.

First, CMUA suggests that D.06-07-030 did not establish the DWR power charge rates applicable to municipal departing load (MDL) not exempt from the California Department of Water Resources (DWR) power charge, that further filings are necessary in order to establish these rates.

Second, CMUA takes the position that D.06-07-030 intended that, following the reduction of the CRS undercollection to zero for each utility, any negative indifference amounts are to be tracked by the utility, and used to offset any future positive indifference amounts in

connection with the determination of the PCIA applicable to non-bundled load responsible for the costs of DWR power. Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) join in the part of this reply that addresses the extent to which negative indifference amounts should be tracked.

With respect to the first issue, as an initial point it is unclear what CMUA's interest is in this matter. Although CMUA did not explicitly list the members of its organization in its pleading, it is PG&E's understanding previous Commission decisions have exempted all currently existing MDL in PG&E's service territory from responsibility for the costs of DWR power. CMUA's arguments do not appear to be germane for any PG&E MDL now in existence.

Turning to the substance of the issue framed by CMUA's pleading, and as is addressed in more detail below, PG&E believes that in D.06-07-030 the Commission did determine the DWR power charge rates applicable to all non-bundled load responsible for those charges, including direct access as well as all departing load. No further litigation is necessary.

As a final point with respect to this issue, PG&E urges that, to the extent that CMUA's arguments are given any credence whatsoever, the Commission not allow them to slow down, or undermine in any other way, the already years-long process to implement billing and collection of departing load charges applicable to transferred MDL, new MDL, departing customer generation (DCG), spit wheeling departing load (SDL) and new WAPA departing load (NWDL).

With respect to the second issue, as is addressed in more detail below, PG&E, SCE, and SDG&E believe that the intent of D.06-07-030 is to allow tracking of negative indifference amounts for each utility prior to the reduction of that utility's CRS undercollection to zero, but that there is to be no tracking of negative indifference amounts for a utility after that utility's CRS undercollection has been reduced to zero. Specifically with respect to PG&E, since

PG&E's CRS undercollection has been reduced to zero, D.06-07-030 clearly states that there be no tracking of any negative indifference amounts for PG&E.

I. EFFECTIVE JULY 1, 2006, D.06-07-030 REPLACED THE DWR POWER CHARGE WITH THE PCIA FOR ALL PG&E NON-BUNDLED LOAD, INCLUDING DIRECT ACCESS AND DEPARTING LOAD, RESPONSIBLE FOR THE COSTS OF DWR POWER; ANY ISSUE RAISED BY CMUA'S RESPONSE RELATES TO PG&E'S PRE-JUNE 30, 2006, DWR POWER CHARGES FOR DEPARTING LOAD CUSTOMERS RESPONSIBLE FOR THE COSTS OF DWR POWER

A. The Issue Is What DWR Power Charge Is Applicable To PG&E Departing Load Prior To June 30, 2006; Regardless Of Anything Else, This Issue Should Not Be Allowed To Delay Or Otherwise Inhibit PG&E' Authority To Bill Departing Load Customers On An Ongoing Basis

1. Effective July 1, 2006, D.06-07-030 Replaced The DWR Power Charge With The PCIA For All PG&E Non-Bundled Load, Including Direct Access And Departing Load, Responsible For The Costs Of DWR Power; The Issue Is What DWR Power Charge Is Applicable To PG&E Departing Load Prior To June 30, 2006

Beginning July 1, 2006, for all of PG&E's non-bundled customers, including direct access as well as departing load customers, responsible for the costs of DWR power, D.06-07-030 replaces the DWR power charge component of rates with the PCIA charge.

The actual PCIA charge was established in Advice 2871-E for departing load customers being billed under approved tariffs, including E-SDL and E-DCG. This advice letter was approved on November 7, 2006.

Prospectively, the PCIA charge is to be set for PG&E's direct access and departing load customers responsible for the costs of DWR power in PG&E's ERRA forecast proceedings. (D.06-07-030, p. 28.) Based on calculations presented in PG&E's 2007 ERRA forecast proceeding, A.06-06-001, PG&E's PCIA beginning on January 1, 2007, will be set in PG&E's supplemental advice filing in its 2007 Annual Electric True-Up (AET) Proceeding, Advice 2895-E-A.

Neither CMUA nor any other party to this proceeding, PG&E's 2007 ERRA forecast proceeding, or PG&E's 2007 AET proceeding has suggested in any way that these PCIA rates are temporary, are subject to further litigation or retroactive adjustment, or are not applicable to some portion of departing load that is responsible for the costs of DWR power.

Therefore, PG&E believes there should be no question that beginning June 30, 2006, the PCIA charge replaced the DWR power charge for all non-bundled customers, including both direct access and departing load, responsible for the costs of DWR power.

There should be no question what the adopted PCIA charge is for all non-bundled customers, including both direct access and departing load, responsible for the costs of DWR power beginning June 30, 2006.

Further, there should be no further litigation over what the adopted PCIA charge will be for all non-bundled customers, including direct access and departing load, responsible for the costs of DWR power beginning on January 1, 2007. It was determined in PG&E's 2007 ERRA proceeding, and will be implemented in rates on January 1, 2007 via Advice 2895-E-A.

Finally, absent further Commission guidance on the topic, it is clear where and how the PCIA applicable to all non-bundled load, including direct access and departing load, responsible for the costs of DWR power will be determined for PG&E in the future. It will be determined in PG&E's annual ERRA forecast proceedings.

Thus, CMUA's December 18 Response relates only to what the applicable DWR charges were, prior to June 30, 2006, for PG&E departing load responsible for the costs of DWR power.

2. PG&E's Authority To Bill Departing Load Customers On An Ongoing Basis Should Not Be Delayed Or Otherwise Inhibited

As the Commission is well aware, it has been a long process to implement PG&E's billing and collection authority with respect to departing load. That process is not yet complete.

PG&E has filed five different tariffs with the Commission to collect non-bypassable charges from five different types of departing load: customer generation departing load (CGDL), transferred municipal departing load (TMDL), new municipal departing load (MDNL), split-wheeling departing load (SDL) and new WAPA departing load (NWDL). The Commission has approved PG&E's tariffs for CGDL and SDL customers, and PG&E has been billing responsible customers on Schedules E-DCG and E-SDL.[1] Just last month, on November 30, 2006, the Commission issued Resolution E-3999 pertaining to TMDL customers and PG&E will shortly be filing revised Schedule E-TMDL in compliance with the resolution in order to begin billing responsible customers. PG&E is still awaiting Commission approval for its tariffs pertaining to MDNL and NWDL customers.[2]

As described above, the only possible issue raised by CMUA's response to PG&E's petition with respect to DWR charges is, prior to June 30, 2005, what DWR power charge rates were applicable to PG&E departing load responsible for the costs of DWR power. In particular, there is no issue as to what the current PCIA charge is, and there is no further litigation to occur with respect to what the PCIA charge is to be in 2007. Therefore, regardless of anything else, there is absolutely no basis for delaying PG&E's ability to bill and collect departing load charges on an ongoing basis due to CMUA's Response, and so PG&E urges the Commission to continue to move forward to approve PG&E's billing and collection authority with respect to departing load charges on an ongoing basis.

[1] See Resolutions E-3831 and E-3909 pertaining to CGDL and Advice 2579-E-A, which was filed in compliance with D.06-02-030 and was approved by the Commission on May 25, 2006, pertaining to SDL.

[2] See Advice 2483-E pertaining to NMDL and Advice 2835-E pertaining to NWDL.

II. CONTRARY TO CMUA'S ASSERTIONS, NO FURTHER COMMISSION ACTION IS NECESSARY WITH RESPECT TO THE DETERMINATION OF THE DWR POWER CHARGE RATES APPLICABLE TO PG&E'S DEPARTING LOAD PRIOR TO JUNE 30, 2006

A. CMUA Is Wrong In Asserting That Further Commission Action Is Necessary To Determine The DWR Power Charge Rates Applicable To PG&E's Departing Load Customers Prior To June 30, 2006

In its December 18 Response CMUA asserts that the Commission has not yet adopted DWR power charges for MDL, and that the Commission should "require PG&E to resubmit CRS accrual rates along the lines previously directed along the lines previously directed in D.06-07-030, as has been done by SCE and SDG&E through the Working Group Petition." (CMUA December 18 Response, p. 12.) CMUA supports this assertion by citing various Commission decisions issued prior to D.06-07-030, which CMUA believes all indicate in some fashion or other that the charges for municipal departing load were not finally settled. (*See, e.g.*, CMUA December 18 Petition, p. 2-6.)

PG&E respectfully disagrees. First, PG&E does not agree with CMUA as to the meaning of some of the previous decisions. But that disagreement is of little relevance at this point. At this point the question is, "What has been resolved, and what is left open for further litigation, after the issuance of D.06-07-030 with respect to the issue of the pre-June 30, 2006, DWR power charges applicable to departing load customers responsible for the costs of DWR power?"

As discussed below, PG&E believes that in D.06-07-030 the Commission clearly established what these charges would be. D.06-07-030 necessarily builds off of the previously established framework including the 2.7 cent per kWh CRS cap.

B. Just As Was The Case With Respect To PG&E's Direct Access Customers Responsible For The Costs Of DWR Power, The DWR Power Charge Rates Applicable To PG&E's Departing Load Customers Prior To June 30, 2006, Is Determined Residually, By Subtracting The Other CRS Charges From The 2.7 Cent Per kWh CRS Cap

CMUA's position is that the Commission had made absolutely no determination of what any non-exempt municipal departing load customer's actual responsibility for DWR charges was prior to the issuance of D.06-07-030, and that the Commission did not make any such determination in D.06-07-030, either. Instead, the whole issue is yet to be litigated.

CMUA's position strains credulity. Days of workshops took place, over months of time, to specifically address the DWR power cost responsibility of direct access and departing load customers and yet, according to CMUA, the Commission simply failed to address these issues with respect to PG&E departing load customers, so that the next step is for "PG&E to resubmit CRS accrual rates. . . ."[3] (Id., p. 12.)

In fact, PG&E believes the Commission's intent was that all PG&E non-bundled load responsible for the costs of DWR power, departing load as well as direct access, is to be treated equally. For example, ordering paragraph 16 in D.03-07-028 states that "[p]ending further order concerning whether the MDL CRS should remain subject to a cap for a longer term, the MDL CRS shall become effective on an interim basis with this order *by applying the same cap as is in effect for DA customers*." (emphasis added.) The Commission never issued a further order, so the identical treatment has remained in effect.

That equal treatment is straightforward. Until June 30, 2006, the DWR power charge

[3] CMUA does not argue that Table 3C, attached to D.06-07-030, was intended to establish pre-June 30, 2006, DWR power charges for PG&E's departing load customers. As PG&E pointed out in its petition, the purpose of that table was to develop estimates of when utilities' CRS undercollections might be reduced to zero, not to set rates. (p. 5.) With respect to PG&E, the most obvious shortcoming of that table for ratesetting is that the parties to this proceeding did not agree on market benchmarks for PG&E for 2004 and 2005 (D.06-07-030, Finding of Fact 13), and so PG&E's numbers for 2004 and 2005 are derived using illustrative rates.

rates for non-bundled load responsible for the costs of DWR power were determined residually, by subtracting the other CRS charges from the 2.7 cent per kWh cap. Beginning July 1, by which time the CRS undercollection for PG&E had reached zero (D.06-07-030, p. 22), the 2.7 per kWh cap was eliminated. (*Id*.) As described above, at that point in time the DWR power charge is replaced by the PCIA for all non-bundled load, direct access and departing load, responsible for the costs of DWR power. (D.06-07-030, pp. 27-28.)

This equal treatment is fair. Each non-bundled customer responsible for the costs of DWR power, whether direct access or departing load, bears the same burden in its rates for a given time period for DWR power costs.

As PG&E pointed out in the introduction of this pleading, it is not clear what CMUA's interest is in this issue in the first place. It is PG&E's understanding that none of the municipal departing load being served by CMUA members as of June 30, 2006, is responsible for the costs of DWR power.

However, PG&E does not believe this analysis is unique to municipal departing load. PG&E believes that this analysis applies to all five types of departing load DWR charges. In fact, pre-June 30, 2006, DWR power charge rates calculated residually from the 2.7 cent per kWh cap have already been approved for two of the other departing load customer types: split-wheeling departing load (SDL); and customer generation departing load (DCG). Advice 2375-E-B pertaining to DCG was approved by the Commission on July 28, 2005, and Advice 2579-E-A pertaining to SDL was approved by the Commission on May 25, 2006. Both advice letters specify that the DWR power charges rates were to be calculated residually, as the difference between 2.7 cents per kWh and the sum of the other CRS component charges.

If, in spite of all of this, the Commission now determines that, contrary to the advice

letters it has previously approved, the pre-June 30, 2006, DWR power charge rates for departing load customers responsible for the costs of DWR power should be determined other than by using the residual, 2.7 cent per kWh cap method just described, PG&E requests that the Commission determine what pre-June 30, 2006, departing load DWR power charge rates should be. PG&E urges the Commission not to conduct further proceedings or hold further hearings on this retrospective issue.

III. DECISION 06-07-030 DID NOT INTEND THAT NEGATIVE INDIFFERENCE AMOUNTS FOR A UTILITY SHOULD BE TRACKED AFTER THE UTILITY'S CRS UNDERCOLLECTION HAS BEEN REDUCED TO ZERO

In its response CMUA also takes issue with PG&E's, SCE's, and SDG&E's joint request that the Commission clarify that D.06-07-030 did not intend for any utility to track negative indifference amounts after the utility's CRS undercollection is reduced to zero. (CMUA December 18 Response, pp. 12-16.) CMUA asserts that in D.06-07-030 the Commission intended to require each utility to track any negative indifference amounts not only while the utility's CRS undercollection was being reduced to zero, but also after the undercollection had been eliminated.

PG&E, SCE, and SDG&E disagree, and believe the Commission's intent was that tracking of any negative indifference amount cease once a utility's CRS undercollection is reduced to zero. In PG&E's case, since its CRS undercollection was determined to be zero as of June 30, 2006, this would mean that PG&E should not track any negative indifference amounts. The circumstances for SDG&E are similar to PG&E. SDG&E's CRS undercollection was determined to be zero in July 2005, and thus SDG&E should not track negative indifference amounts, either.

Some language in D.06-07-030 may not be completely clear on this point, read in isolation. However, there is a theme throughout the decision that negative indifference should

not be tracked once the CRS undercollection for a utility is reduced to zero.

> Once the existing CRS undercollection is eliminated, the indifference charge for non-exempt DA customers shall *not be* permitted to decrease below zero, and no negative balance should be carried forward. (D.06-07-030, Ordering Paragraph 8 (emphasis added).)

The Commission makes this completely clear with respect to PG&E.

> Given the parties agreement on the end of year 2005 undercollection balance, with the balance reaching zero by June 2006, PG&E will not be required to track the undercollection balance thereafter. (D.06-07-030, p. 17.)

CMUA cites as precedent "D.05-12-045, which was exclusively relied upon by the Commission in D.06-07-030" (CMUA December 18 Response, p.14), but misunderstands the Commission's analysis of D.05-12-045.

The Commission's discussion of D. D.05-12-045 in D.06-07-030 is only offered to justify the fact, which has not been disputed by any party, that the Commission allows any negative indifference amounts to be tracked by a utility during the pendency of the reduction of that utility's CRS undercollection to zero, and to be used to offset the remaining CRS undercollection.

> Once the existing CRS undercollection is eliminated, the indifference charge for non-exempt DA customers shall *not be* permitted to decrease below zero, and no negative balance should be carried forward . . . . However, any accumulated negative indifference amount shall continue to be tracked and applied to any future positive indifference amounts that may accrue in later years of the applicability of the DA CRS. This approach is consistent with D.05-12-045, which permits a negative ongoing CTC to offset a subsequent positive ongoing CTC." (D.06-07-030, p. 17.)

Decision 05-12-045 is only cited in this context, and not for the general principle, rejected elsewhere in D.06-07-030, that negative indifference amounts should be tracked by a utility after its CRS undercollection has been reduced to zero.

As CMUA notes, PG&E incorrectly interpreted D.06-07-030 initially in the compliance advice letter it filed to implement provisions of D.06-07-030. (CMUA December 18 Response, pp. 12-14.) However, when taken as a whole as just described, D.06-07-030 clearly indicates that negative indifference should not be accumulated and tracked for a utility once that utility's CRS undercollection has been reduced to zero. PG&E and SDG&E will correct their previous advice filings, as appropriate, to conform to D.06-07-030 as clarified in response to PG&E, SCE, and SDG&E's joint request for clarification on this point.

Respectfully Submitted,

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By: /s/
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December 28, 2006

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, California 94105.

On the 28th day of December, 2006, I served a true copy of:

REPLY OF PACIFIC GAS AND ELECTRIC COMPANY TO THE RESPONSE OF THE CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION

by electronic mail to all parties to R.02-01-011 providing an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the 28th day of December, 2006.

/s/
MARTIE L. WAY

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